



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2012-0540; FRL-9805-5]

**Approval and Promulgation of Air Quality Implementation Plans;
Illinois; Air Quality Standards Revision**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Illinois state implementation plan (SIP) to reflect current National Ambient Air Quality Standards (NAAQS) for ozone and particulate matter (PM).

EPA is approving a revision to add new incorporations by reference associated with current ozone, lead, and particulate matter NAAQS into the Illinois SIP. EPA is also approving revisions that amend typographical errors in the Illinois SIP.

DATES: This direct final rule will be effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2012-0540, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for

submitting comments.

2. E-mail: blakley.pamela@epa.gov.

3. Fax: (312) 692-2450.

4. Mail: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2012-0540. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The

www.regulations.gov website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago,

Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, maietta.anthony@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. Background.
- II. Contents of Illinois' Submittal.
- III. What Action is EPA Taking?
- IV. Statutory and Executive Order Reviews.

I. Background.

Today's action updates the Illinois SIP to reflect current ozone and PM NAAQS promulgated by EPA. On July 18, 1997 (62 FR 38856), EPA published a final rule that established NAAQS for ozone measured as a daily maximum eight hour concentration of 0.08 parts per million (ppm), based on the three year average of the fourth highest daily eight hour value recorded during each

calendar year. The eight hour NAAQS replaced the one hour ozone NAAQS, however, the one hour ozone designations and classifications were retained to comply with anti-backsliding obligations. On April 30, 2004 (69 FR 23951), EPA published the first phase of its final rule to implement the eight hour ozone NAAQS and revoke the one hour ozone NAAQS. At the same time, EPA also published eight hour ozone designations for all areas of the country (69 FR 23858, April 30, 2004). On August 3, 2005 (70 FR 44470), EPA published a final rule that revoked the one hour ozone NAAQS. On July 11, 2007 (72 FR 37818), EPA proposed to strengthen the NAAQS for ozone by revising the level of the eight hour standard to a level within the range of 0.070 to 0.075 ppm daily maximum eight hour concentration, based on the three year average of fourth highest daily eight hour value recorded during each calendar year. On March 27, 2008, EPA published a final rule that revised the NAAQS for ozone (73 FR 16436). In that action, EPA established both the primary and secondary eight hour ozone NAAQS to be 0.075 ppm, expressed in three decimal places.

On November 12, 2008, EPA published a final rule (73 FR 66964) that updated the primary and secondary NAAQS for lead to be 0.15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). The rule also revised the averaging time for lead to be a rolling three month period with a maximum form that is evaluated over a three year period. Finally, the rule revised data handling procedures,

including ambient air monitoring and reporting requirements.

On July 18, 1997 (62 FR 38652), EPA published a final rule that added NAAQS for particulate matter of 2.5 microns or less in diameter ($PM_{2.5}$) by revising the annual $PM_{2.5}$ standard to $15 \mu\text{g}/\text{m}^3$, based on the 3-year average of annual arithmetic mean $PM_{2.5}$ concentrations at each monitor in an area, and by revising the one hour $PM_{2.5}$ standard to $65 \mu\text{g}/\text{m}^3$ based on the three year average of the 98th percentile of 24 hour $PM_{2.5}$ concentrations at each monitor in an area. On October 17, 2006 (71 FR 61143), EPA revised the 24 hour $PM_{2.5}$ standard to $35 \mu\text{g}/\text{m}^3$, based on the three year average of the 98th percentile of 24 hour $PM_{2.5}$ concentrations at each monitor in an area. In the same notice, EPA revoked the annual NAAQS for PM of 10 microns or less in diameter (PM_{10}).

On June 20, 2012, the Illinois Environmental Protection Agency (IEPA) submitted a request for EPA to approve revisions to its SIP that amend part 243 of title 35 of the Illinois Administrative Code (35 IAC part 243) to reflect current ozone and PM NAAQS, and to correct typographical errors. The submittal also requests that EPA approve corrections to 35 IAC part 217.388 and 35 IAC part 233.305, based on comments received during public hearings held by IEPA for the amendments to 35 IAC part 243.

II. Contents of Illinois' Submittal.

The contents of Illinois' submittal are discussed in detail

in our technical support document (TSD) contained in the docket for this rulemaking. To read the TSD, follow the instructions for viewing the docket at the beginning of this notice.

In summary, Illinois' submittal requests that EPA approve amendments to 35 IAC parts 217, 223, and 243 into the Illinois SIP. Illinois revised 35 IAC part 243 by updating the definitions of ozone and particulate matter NAAQS to match the current NAAQS for these pollutants. The revision to 35 IAC part 243 also updates incorporations by reference to match current techniques, methods, reference methods, and interpretations of NAAQS for criteria pollutants. The amendments to 35 IAC part 243 are approvable.

The amendments to 35 IAC parts 217 and 223 contained in the June 20, 2012, submittal have been amended further and submitted to EPA in subsequent submittals, which we have acted on. For this reason EPA is taking no action on these parts of 35 IAC parts 217 and 233 at this time.

III. What Action is EPA Taking?

EPA is approving into the Illinois SIP amendments and additions to the following sections of 35 IAC part 243 contained in the June 20, 2012, submittal: sections 243.101, 243.104, 243.107, 243.108, 243.120, 243.122, 243.125, and 243.126. EPA is taking no action on amendments to 35 IAC parts 217 and 223.

We are publishing this action without prior proposal because

we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule,

so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 12, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.720 is amended by adding paragraph (c)(195) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(195) On June 20, 2012, Illinois submitted an amendment to its State Implementation Plan at 35 Illinois Administrative Code part 243, which updates National Ambient Air Quality Standards for ozone, lead, and particulate matter while correcting various errors in the plan.

(i) *Incorporation by reference.* Illinois Administrative Code; Title 35: Environmental Protection; Subtitle B: Air Pollution; Chapter I: Pollution Control Board; Subchapter 1: Air Quality Standards And Episodes; Part 243: Air Quality Standards; Sections 243.101 Definitions, 243.104 Nondegradation, 243.107 Reference Conditions, 243.108 Incorporations by Reference, 243.120 PM₁₀ and PM_{2.5}, 243.122 Sulfur Oxides (Sulfur Dioxide), 243.125 8-Hour Ozone, and 243.126 Lead; effective October 25, 2011.

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